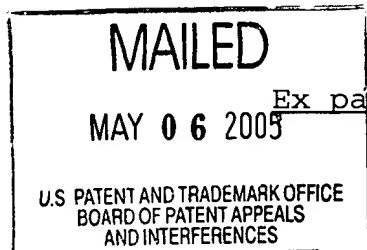


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte ANIL M. MURCHING, THUMPUDI NAVEEN
and ALI TABATABAI

Application No. 09/496,068

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on April 19, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on September 20, 2004, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c). However, the Appeal Brief does not completely comply with the new rules under 37 CFR § 41.37(c)(1)(x), which states:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

. . .

(x) *Related proceedings appendix*. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

(2) A brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or with any appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of the appeal.

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

A review of the application reveals that the following sections are missing from the Appeal Brief filed September 20, 2004:

(1) "Related proceedings appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

It is required that a substitute Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c)(1)(x).

Accordingly, it is

ORDERED that the application is returned to the examiner to:

(1) hold the Appeal Brief filed on September 20, 2004 defective;

(2) to notify appellants to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;

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(3) for the examiner to consider the substitute Appeal Brief and, if necessary, vacate the Examiner's Answer mailed December 27, 2004 and issue a new Examiner's Answer, and

(4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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